

Summary Minutes of the
Delta Protection Commission
July 26, 2007

1. Call to Order/Flag Salute

Chairman Simonsen called the meeting to order at 6:45 p.m.

2. Welcome New Commissioners

Chairman Simonsen welcomed Steven Dresser. Commissioner Dresser is currently a council member for the City of Lathrop and will represent the San Joaquin Council of Governments on the Commission.

3. Roll Call

Commissioners Present: Chairman Simonsen, Commissioners Armor, Calone, Dresser, Johnson, Johnston, Kelly, Nottoli, Piepho, Tilghman, van Loben Sels, and Wilson.

Commissioners Absent: Chairman McGowan, Vice Chairman Ferguson, Commissioners Cabaldon, Reagan, Ruhstaller, Scriven and Shaffer.

4. Public Comment

Harry Moore, Stockton reported that the water tables of the entire valley area have dropped dramatically from over pumping and are still causing losses of our aquifers in all areas. Mr. Moore said that much of the Delta is fifteen to twenty feet below sea level and sinking about four inches per year. Additionally over 5,200 square miles of the central valley has subsided in excess of one foot and in some areas around Mendota as much as 31 feet. Mr. Moore said that in order to recover a portion of the losses, the first step would be to protect the head waters and restart as much fresh water flow as possible for our main rivers and streams. He also said the San Joaquin River could release at least one-third of its natural flow as quickly as possible and then increase over a period of time all rivers and streams to two thirds flow and never remove or transport over one third of their flow away from their natural influence. Additionally, coastal cities should look towards desalinization to release water from dammed areas and help restore natural flows of our rivers and streams. Mr. Moore said that many of the Delta's levees have reached the shear capacity of the underlying soil and will require engineering to raise them higher which could be accomplished with membrane and widening and using dredged spoils. He said this and other maintenance work could be done while flows are being restarted in various areas.

CONSENT AGENDA (Items 5-9)

5. Approve Minutes of Meeting of May 24, 2007

Commissioner Johnson moved approval of the Consent Agenda; Commissioner van Loben Sels seconded; the Consent Agenda was approved unanimously.

CONSENT AGENDA

10. Introduction of New Commission Staff

Linda Fiack introduced Suzanne Butterfield as the new Commission staff. Ms. Butterfield previously served as the General Manager of the Solano Irrigation District and will work at the Commission as the Deputy Director of Special Projects.

11. Receive Presentation from U. S. Army Corps of Engineers (Corps) on Levee Maintenance Policies Relative to Vegetation Removal Pursuant to Public Comment Received at May 24, 2007 Meeting.

Ms. Fiack reported that Jeff Hart, Hart Restoration expressed concerns to the Corps about its policy to strip woody vegetation off levees and how it is impacting local reclamation districts; she introduced Judy Soutiere, Flood Risk Program Coordinator for the Corps to give an informational briefing.

Ms. Soutiere said that the Corps had circulated a white paper which generated over 1,000 comments and much discussion. She said the Corps was working with a variance to a 1949 policy which allowed for only small trees and bush to reside on the water side of the levees; however, a 1993 new engineering manual recommended a 15ft vegetation and root free zone from the tow of the levee for all new projects. She said that in 1996 a DWR Development Act required the Corps to examine current policies, and in 2006 a new levees owner manual for the non federal flood control work had a comprehensive checklist with a three tier rating system but the system was deemed too cumbersome so the Corps determined to go with a one tier rating system using manual/checklist for inspection.

Ms. Soutiere said that the primary purpose in flood control is life and public safety and those that wrote the white paper felt that removing trees would be the best way to ensure that safety, which allows for a better flood fight. It would cost millions of dollars to bring a one mile levee section into compliance and the white paper reaffirmed the existing Corps policies and removal of all vegetation would result in no federal dollars. Additionally, non cost sharing will be burdened by non federal sponsors to deal with the issue. Challenges include environmental regulations that need to be dealt with, as well as immediate impacts that inspections will be done in the fall using the new guidelines/checklist from the non federal manual which has not been coordinated with California FLOODSAFE. She also said the feeling is that there is not enough science evidence for removal of vegetation and timeframe of implementation.

Ms. Soutiere said that because of Hurricane Katrina there have been changes on how the Corps does business. Next steps will be meeting with resource agencies to discuss funding. She recommended everyone concerned attend the symposium.

Commissioner van Loben Sels asked if the elected officials were to work on the policy, can and will they be able to change the policy and how long would the task take. Ms. Soutiere responded the Corps has already met with elected official regarding their concerns. She said that in the interest of public safety it would not be wise to have a legislative fix on the issue until the standards are set and how to work through them with the resource agencies.

Commissioner Piepho asked if the Corps was looking at the issue that the Delta levee system is different/diverse within each county regarding the discussion. Ms. Soutiere responded yes.

Commissioner Kelly asked who would be analyzing the comments. Ms. Soutiere responded that all the comments would be categorized and incorporated into the final policy; however, they would not be responded to individually.

Commissioner Johnson asked if Katrina levees were similar to Delta levees. Ms. Soutiere responded that she not familiar with the types of Katrina levees; however, those levees were mostly wind damaged, had encroachments issues, and were not accessible in order to flood fight.

Commissioner Calone asked what impact the project would have on homeowners whose homes are located on the tow of the levees. Ms. Soutiere responded she did not know as those are questions that have not been answered.

Commissioner Wilson said the DPC should immediately take a very strong position against the project.

Chairman Simonsen called for public comment.

Jeff Hart, Walnut Grove, stated that stability is the problem with levees. Mr. Hart said that there were no tree problems with the Katrina situation, in addition, when Jones Tract breached there was no levee vegetation and in every situation that he has reviewed, there has been little to no vegetation. He further stated that there should be paradigm shifts in how they view public safety and work with nature, as the situation is about safety and vegetation is used to hold levees in place.

Janet Lobel, Steamboat Slough asked who would the public object to regarding the issue. Ms. Soutiere recommended that Ms. Lobel attend the SAFCA symposium on August 28-29, 2007 to bring up questions and provide as much information as possible and implore government agencies to follow up with letters to the Corps.

Pastor Larry Emery said he was concerned about the Corps' lack of knowledge in comparing the New Orleans levees to Delta levees and to be careful about making such comparisons. He said he has toured the New Orleans levee systems and the uses are different than the Deltas. He further stated that the Corps should look at Delta levees to see what kind of structures and needs we have and to take it upon itself to conduct a more careful study to produce an exact comparison and difference in terms of maintenance.

Dorothy Wheeler stated that the public should get in touch with their field representatives and direct any comments to them.

Brad Parpalardo, Steamboat Slough said he agreed with the Pastor and would like to receive information regarding risk assessment. Ms. Soutiere responded that risk analysis is something tasked by Congress to do.

Chairman Simonsen closed the public comment session.

Commissioner van Loben Sels said that the Commission should take an immediate position and get the information out to the Reclamation Districts so that trees are not removed prematurely.

Commissioner Simonsen asked that Commission staff draft a letter and relate it to the policies to the Management Plan and send to appropriate agencies.

12. Receive Status Update from Commissioners Nottoli and Armor on Re-establishment of a Safe Passage Marker in Lower Sherman Island Lake Pursuant to Public Comment Received at May 24, 2007 Meeting.

Commissioner Armor stated that he was still making calls to determine which agency has the legal mandate over the marker as it is a hazard marker and not a channel marker. Commissioner Johnson said that he would look into the matter as the waters usually belong to the counties or cities.

Commissioner Nottoli responded that if the marker situation were taken on by Sacramento County, then the County would assume a serious liability.

Commissioner Piepho said that if there were no environmental concerns then rehabilitation or replacement of the marker would be possible. She also said that she would bring the issue before the Contra Costa County Public Works Department to see if Contra Costa could share any potential costs.

Bill Worrell commented that it is the Coast Guard that is responsible for navigational waters; there is liability involved; however a government agency has to take responsibility.

13. Receive Presentation on Valley Vision Great California Delta Trail Planning Concept, Including Consideration of Commission Input Provided at May 24, 2007 Meeting

Kristine Mazzei gave a brief outline of Valley Vision's project phases to create a plan and implementation program for the Delta Trail. Ms. Mazzei reported that Phase I would be laying project groundwork whereby they would gather needed information which will serve as the foundation of the planning process. Phase II would be the Vision Creation whereby stakeholders, technical experts and government officials would be engaged to create a vision and detailed plan that would be embraced by everyone; and lastly, Phase III would be the implementation of the vision where the resources would be assembled and policy changes identified that would be needed to support the physical construction and long term maintenance of the Trail.

Commissioner Simonsen asked if Valley Vision was working with ABAG. Ms. Mazzei responded no, that they normally work with the six county COGS and does not have a strong familiarity with ABAG, but they do have contacts there. Ms. Fiack responded that Commission staff was working with ABAG.

Commissioner Nottoli said he was familiar with Valley Vision as they do quality work and are in a position where they can pick and choose their projects.

Commissioner van Loben Sels stated that it would be wise for Valley Vision to visit the five county farm bureaus in their research efforts as there are areas on maps where it would be not feasible to put in a trail. Ms. Mazzei said she is very sensitive to the farm bureaus as she began her early career with the farm bureaus.

Commissioner Wilson said that the concept of introducing a trail is not popular amongst farmers in the Delta. He asked if the project is moving forward on the presumption that it is a good idea, or is it moving forward on the presumption that it could be a good idea. Ms. Fiack responded that under SB 1556, the Commission is mandated to implement the feasibility and planning process for the trail; thus, the process is for planning and feasibility—hence the change from a Delta loop to a Delta network.

Commissioner Wilson also asked if condemnation proceedings would work from unwilling sellers. Ms. Frazier said she did not know because Phase I of the project is to collect all viewpoints and then determine what would work for Phases II and III.

Commissioner Kelly asked how the project would roll out over time, would the Commission have weigh in status and would Valley Vision complete all three phases. Ms. Mazzei said that the Commission would have complete weigh in status and Valley Vision would keep the Commission apprised at all times.

Commissioner Kelly cautioned the Commission to be careful about State contracting procedures. Ms. Fiack responded that she has been working with the State Lands Commission contracts staff to follow the proper procedures.

Commissioner Calone asked if SB 1556 would provide any funding for the contract. Ms. Fiack responded no; however the Senator is looking at acquiring money from sources because the contract cannot be funded with general funds. In essence, the Commission would not be funding the costs of the contract.

Commissioner Armor said that there is the misconception that state property will be easy access for trail systems and he wanted to make sure that Valley Vision would be looking at the various management plans that are designed to protect those areas.

Commissioner Calone asked if the trail was restricted to the Primary Zone. Ms. Fiack responded that the trail must begin at the end of the Bay Trail and end at some point in Sacramento and/or Yolo. She also said that the feasibility study would look at if the trail would become a buffer between the Primary and Secondary Zones.

Commissioner Kelly moved that staff initiate the appropriate process for implementation of the concept and execute documents and agreement required for implementation; Commissioner Calone seconded. The motion was approved unanimously.

14. Receive Informational Update on Delta Vision Process from Delta Vision Stakeholder Committee Members.

Commissioner van Loben Sels reported that there are 42 people on the Stakeholder group—five of which are Commissioners. He said the Stakeholder group would have to deliver a product to the Chairman of the Blue Ribbon Task Force, Phil Isenberg by August 31, 2007, but the process is frustrating because the group does not have the facts, figures or hydrology that is needed to make a decision to produce a report within that timeframe. Commissioner van Loben Sels also said that another issue is the transferring of Delta Smelt into Yolo Bypass which would impact other reclamation districts. He said that the Task Force should solve the problem and not transfer the smelt

Commissioner Simonsen said he too felt frustrated and undercut by some of the Governor's comments. He said he spoke with Chairman Isenberg regarding his thoughts, who responded that they don't work for the Governor and are assigned to do a job. He asked that anyone who had comments to bring them forward.

Ms. Fiack said that the Commission has been asked to provide input regarding governance and reminded everyone that the Commission is still mandated to carry on business under the Act. She further stated that the several members of the Commission spoke before the Blue Ribbon Task Force as an invited panel.

15. Consider Priorities for 2007-2008 Program Administration and Regional Plan Implementation Consistent with the Commission's 2006-2011 Strategic Plan.

Ms. Fiack stated that she provided the accomplishments of the Strategic Plan for the current year. She said it was time to go through its policies and think about establishing and identifying tasks for the following year.

Ms. Fiack also said the Budget Subcommittee came up with a concept/analysis and alternative to have Commission member entities augment the Commission's budget. The augmentation would take place for the 2008-09 fiscal year.

Commissioner Nottoli said he would only need an invoice in order for Sacramento County to pay its share of the augmentation. He impressed upon his colleagues to also contribute.

Commissioner Simonsen said that the Commission might want to look at using Proposition 10 funds.

Commissioner van Loben Sels suggested that the Commission might want to ask the water agencies to contribute.

Commissioner Wilson moved approval of the revised budget augmentation concept from the Budget Committee and directed staff to initiate discussions with member entities for the 2008-2009 fiscal year; Commissioner Piepho seconded. The motion was approved unanimously.

16. Commissioner Comments/Announcements

Commissioner Piepho asked that meeting location changes, and maps/directions be noted on the agenda.

Commissioner Johnson asked what was the status of the three Gubernatorial appointments on the Commission. Ms. Fiack responded that she has made several inquiries regarding the appointments but has not been given a date for their arrival. She said she would continue to make inquiries.

Commissioner Piepho suggested that a signed letter from the Chair to the Governor might be helpful to move the appointments along.

17. CLOSED SESSION

The Commission convened in closed session.

18. Adjourn

The meeting was adjourned at 9:00 p.m.